

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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Jeromy Oelker,

Plaintiff,

v.

State of Nevada, et al.,

Defendants.

Case No. 2:25-cv-00528-JAD-DJA

**Order Adopting  
Report and Recommendation  
and Dismissing Case**

On July 7, 2025, the magistrate judge entered this report and recommendation [ECF No. 6]:

On May 2, 2025, the Court ordered *pro se* Plaintiff Jeromy Oelker to pay the filing fee or apply to proceed *in forma pauperis* (which means to proceed without paying the filing fee). (ECF No. 5). In that order, the Court gave Oelker until June 2, 2025, to either pay the filing fee or apply to proceed *in forma pauperis*. The Court informed Oelker that “[f]ailure to timely comply with this order may result in a recommendation to the district judge that this case be dismissed.” (*Id.*) (emphasis in original). To date, Oelker has neither paid the filing fee, nor applied to proceed *in forma pauperis*, nor filed anything else on the docket. So, the Court recommends dismissal of this case without prejudice. A dismissal without prejudice allows Oelker to refile a case with the Court, under a new case number.

Federal Rule of Civil Procedure 41(b) permits dismissal of an action for the failure to prosecute or comply with rules or a court order. Fed. R. Civ. P. 41(b). In considering whether to dismiss an action under Rule 41(b), courts consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions. *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1998).

Here, because Oelker has not complied with the Court’s order or taken any action in this case since March of 2025, the Court recommends dismissal of Oelker’s case without prejudice.

1 See Fed. R. Civ. P. 41(b); see LR<sup>1</sup> IA 11-8(e) (providing that the Court may, after notice and an  
2 opportunity to be heard, impose any and all appropriate sanctions on a party who fails to comply  
3 with any order); see *Pac. Harbor Capital, Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112, 1118  
4 (9th Cir. 2000) (“an opportunity to be heard does not require an oral or evidentiary hearing on the  
5 issue...[t]he opportunity to brief the issue fully satisfies due process requirements”). The first  
6 factor weighs in favor of dismissal because the public has an interest in expeditious resolution of  
7 litigation and Oelker’s failure to further participate in this lawsuit impedes this goal. The second  
8 factor weighs in favor of dismissal because the Court’s need to manage its docket is thwarted by  
9 Oelker’s failure to prosecute his own action and to comply with this Court’s order. The third  
10 factor weighs in favor of dismissal because the longer this case is carried on, the more difficult it  
11 will be for the parties to litigate it because witnesses’ memories will fade and evidence may be  
12 lost. The fourth factor weighs in favor of Oelker, but does not outweigh the other factors. Fifth,  
13 lesser sanctions are not available if Oelker will not comply with Court orders. So, the Court  
14 recommends dismissing this case without prejudice.

#### 15 16 **ORDER**

17 **IT IS ORDERED** that the Clerk of Court is kindly directed to send Oelker a copy of this  
18 report and recommendation.

#### 19 **RECOMMENDATION**

20 **IT IS RECOMMENDED** that this case be **dismissed without prejudice**.  
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27 <sup>1</sup> This refers to the Local Rules of Practice for the United States District Court, District of  
28 Nevada, which can be found on the Court’s website at <https://www.nvd.uscourts.gov/court-information/rules-and-orders/>.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The deadline for any party to object to this recommendation was July 21, 2025, and no party filed anything or asked to extend the deadline to do so. “[N]o review is required of a magistrate judge’s report and recommendation unless objections are filed.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Having reviewed the report and recommendation, I find good cause to adopt it, and I do. IT IS THEREFORE ORDERED that the Magistrate Judge’s Report and Recommendation [ECF No. 6] is **ADOPTED** in its entirety, and **this case is DISMISSED** without prejudice. **The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.**

  
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U.S. District Judge Jennifer A. Dorsey  
Dated: July 28, 2025